

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION**ENTERED**

March 22, 2017

David J. Bradley, Clerk

SEFERINO AVILA
Movant

VS.

UNITED STATES OF AMERICA
Respondent§
§
§
§
§
§

CIVIL ACTION NO. 7:14-CV-50

CRIMINAL NO. M-11-319-2

ORDER ADOPTING REPORT AND RECOMMENDATION

Pending before the Court is Movant's motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255, which motion had been referred to the Magistrate Court for a report and recommendation. On February 17, 2017, the Magistrate Court issued the Report and Recommendation, recommending that Respondent's Motion to Dismiss be granted, and that Movant's section 2255 motion be dismissed with prejudice and that a Certificate of Appealability be denied upon the issuance of this Court's final order. Also pending before the Court are Movant's objections to the Report and Recommendations.

Pursuant to Federal Rule of Civil Procedure 72(b), the Court has conducted a de novo review of the Report and Recommendation. Finding no clear erroneous error, the Court adopts the Report and Recommendation in its entirety. Accordingly, Respondent's Motion to Dismiss (Crim. Dkt. Entry No. 11) is **GRANTED** for the reasons explained in the Report and Recommendation, Movant's section 2255 claims are **DISMISSED** with prejudice. A Certificate of Appealability is **DENIED**.

SO ORDERED this 21st day of March, 2017, at McAllen, Texas.


Randy Crane
United States District Judge